

D-6

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 9, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:05MD-115

MAUI

Re-Submittal Reconsideration of Rent under General Lease No.
S-5497 to Trustees for the Apostolic Faith Church of
Honolulu for Church and Allied Facilities Purposes, Lahaina,
Maui, Tax Map Key: (2) 4-5-5:portion 17.

APPLICANT:

Trustees for the Apostolic Faith Church of Honolulu, a domestic
non-profit corporation whose mailing address is Mala Wharf
Approach Street, Lahaina, Hawaii 96761.

LEGAL REFERENCE:

Section 171-43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Alamihi situated at Lahaina, Maui,
identified by Tax Map Key: (2) 4-5-5:portion 17, as shown on the
attached map labeled Exhibit A.

AREA:

7,509 square feet, more or less.

ZONING:

State Land Use District:	Urban
County of Maui CZO:	R-2

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO _____x

CHARACTER OF USE:

Church and allied facilities purposes.

LEASE TERM:

Fifty-five (55) years, commencing on July 1, 1992 and expiring on June 30, 2047.

ANNUAL RENT:

\$600.00 for the time period July 1, 1992 to June 30, 2002.

RENTAL REOPENINGS:

At the 10th, 20th, 30th, and 45th years of the lease term. Pursuant to page 2 of the subject lease "Determination of rental upon reopening of the annual rental. The rental for any ensuing period shall be the fair market rental at the time of reopening."

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u> x </u>	NO	<u> </u>
Registered business name confirmed:	YES	<u> x </u>	NO	<u> </u>
Applicant in good standing confirmed:	YES	<u> x </u>	NO	<u> </u>

BACKGROUND:

On June 28, 1954 the Church acquired through the public auction process a twenty-one (21) year lease of the State property for church purposes (General Lease No. 3489). Upon the end of the one-year holdover, the Church acquired a month-to-month Revocable Permit No. S-5345 for church purposes. The Church had a 496 square foot wooden Sunday School building and 2 carports. The balance of the property was cleared, grassed and maintained. The Land Board on November 20, 1992, under agenda Item F-5, approved a new lease to the Trustees of Apostolic Church of Honolulu. The Land Board subsequently amended its approval on June 14, 1996, under agenda item D-9, to correct the lessee name to Trustees for the Apostolic Faith Church of Honolulu.

The Land Board at its meeting of June 9, 2005, under agenda Item D-10, deferred staff request for reconsideration of the rent for General Lease No. S-5497. The recommendation was to determine the rent to be either fair market or nominal for the period from July 1, 2002 to June 30, 2012; and to authorize a lease amendment to delete the rental reopening provision. No decision could be reached. (Exhibit 00)

REMARKS:

According to General Lease No. S-5497, reopenings shall be conducted on the 10th, 20th, 30th, and 45th years of the term and "the rental for any ensuing period shall be the fair market rental at the time of reopening."

On July 15, 2002, independent appraiser Mr. Edward Becker from Becker Consulting Group, Inc., conducted an appraisal of General Lease No. S-5497 which determined the fair market rent to be \$7,000 per annum. The Chairperson approved this appraisal on August 13, 2002.

By letter dated September 16, 2002 (Exhibit B), the Lessee has reconsidered its acceptance of the new rent and requested that the church, as a non-profit, be considered for a reduced rent under the Department's non-profit leasing policy.

As a lease issued pursuant to Section 171-43.1, HRS, the Board has the statutory authority to grant nominal consideration. Because past attempts at developing guidelines on how to handle all non-profits on a fair and consistent basis have not been successful, staff is bringing the subject case to the Board for its discretion. Staff has requested information on the Lessee's operations, services, program measurements, budget and funding and has attached whatever the Lessee has provided (Exhibit C).

The Lessee has not approached any government agency to put the leased lands under an Executive Order.

The Lessee is in compliance with all lease terms and conditions. Rent of \$600 is paid up to June 30, 2006. Liability insurance expires April 20, 2006. There is a \$500 certificate of deposit bond on deposit. A Notice of Default February 2004 was issued due for not posting the performance bond. A performance bond was submitted to our Maui District Office on July 14, 2004.

DISCUSSION:

The Board of Land and Natural Resources (Board) typically issues leases to private individuals and entities via public auction. The rent is established as fair market rent by appraisal. When a rental reopening occurs during the term of the lease an appraiser sets the new rent at fair market value.

However, when the tenant or prospective tenant is an eleemosynary (charitable) organization, the Board may lease, at a nominal rent, by direct negotiation. The statute that addresses this option of the Board is summarized as follows:

§171-43.1 Lease to eleemosynary organizations. The board may lease, at a nominal consideration, by direct negotiation and without recourse to public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service. [L 1970, c 83, §5; am L 1971, c 100, §1; am L 1982, c 202, §1; am L 1991, c 212, §3]

It is noted that the 501(c)(1) organization must be both organized by an Act of Congress and be an instrumentality of the United States, while the 501(c)(3) organization is a privately organized charitable organization.

Therefore, when considering lease dispositions to eleemosynary (charitable) organizations, the Board has the option to dispose of via public auction at fair market rent or by direct negotiation at nominal rent. On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the Minimum Rent for Lease be no less than \$480 per year. Generally, Land Division issues Leases at fair market value, as determined by appraiser or public auction. Staff believes "nominal rent" under Section 171-43.1, Hawaii Revised Statutes ought to be anywhere between fair market rent, or lower, but not lower than the minimum rent of \$480 per year.

ALTERNATIVES:

There are several alternatives:

1. Accept the independent real estate appraiser determination that \$7,000 per annum is fair market rental for the period from July 1, 2002 to June 30, 2012.
2. Determine the Lessee current rent of \$600 per annum continues for the period from July 1, 2002 to June 30, 2012. This would continue the rent the Lessee has been paying since July 1, 1992. This is not nominal rent, but "fair market rent" determined by Mr. Ted Kesaji, Appraiser as of July 1, 1992 for the first ten (10) years, through July 1, 2002.
3. Determine the Lessee should be considered under the Board's Minimum Rent Policy for New Dispositions (Exhibit D) and the new annual rental should be \$480 per year. Although the intent was for new land dispositions issued by Land Division, this is a good guideline for what is at least acceptable rent for the use of State lands.
4. Amend General Lease No. S-5497 by deleting all future rent reopenings. Besides the current reopening of July 1, 2002, there will be reopenings scheduled for July 1, 2012, July 1, 2022 and July 1, 2037. Lessee qualified for the lease pursuant to Section 171-43.1, Hawaii Revised Statutes, there should be no need for reopening the rent in the future at "fair market".

RECOMMENDATION: That the Board

1. Amend General Lease No. S-5497, Trustees for the Apostolic Faith Church of Honolulu, Lessee, by (1) add 'Effective July 1, 2002 to June 30, 2047, the annual rental shall be \$480 per annum' and (2) delete the rental reopenings at the expiration of the tenth

June 9, 2006

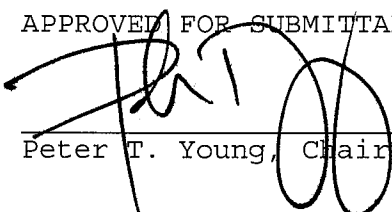
(10th), twentieth (20th), thirtieth (30th), and forty-fifth (45th) years of the lease term requirement, subject to:

- A. The standard terms and conditions of the most current lease amendment document form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

DEFERRED

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 9, 2005

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:05MD-115

MAUI

Reconsideration of Rent under General Lease No. S-5497 to
Trustees for the Apostolic Faith Church of Honolulu for
Church and Allied Facilities Purposes, Lahaina, Maui, Tax
Map Key: (2) 4-5-5:portion 17.

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State Land Use District: Urban
County of Maui CZO: R-2

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO x

CHARACTER OF USE:

Church and allied facilities purposes.

Deferred
**APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON** *me*

June 9, 2005

EXHIBIT "00"

ITEM D-10

June 9, 2005

LEASE TERM:

Fifty-five (55) years, commencing on July 1, 1992 and expiring on June 30, 2047.

ANNUAL RENT:

\$600.00 for the time period July 1, 1992 to June 30, 2002.

RENTAL REOPENINGS:

At the 10th, 20th, 30th, and 45th years of the lease term. Pursuant to page 2 of the subject lease, "Determination of rental upon reopening of the annual rental. The rental for any ensuing period shall be the fair market rental at the time of reopening."

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u>x</u>	NO	<u> </u>
Registered business name confirmed:	YES	<u>x</u>	NO	<u> </u>
Applicant in good standing confirmed:	YES	<u>x</u>	NO	<u> </u>

REMARKS:

On June 28, 1954 the Church acquired through the public auction process a twenty-one (21) year lease of the State property for church purposes (General Lease No. 3489). Upon the end of the one year holdover, the Church acquired a month-to-month Revocable Permit No. S-5345 for church purposes. The Church had a 496 square foot wooden Sunday School building and 2 carports. The balance of the property was cleared, grassed and maintained. The Land Board on November 20, 1992, under agenda Item F-5, approved a new lease to the Trustees of Apostolic Church of Honolulu. The Land Board subsequently amended its approval on June 14, 1996, under agenda item D-9, to correct the lessee name to Trustees for the Apostolic Faith Church of Honolulu.

According to General Lease No. S-5497, reopenings shall be conducted on the 10th, 20th, 30th, and 45th years of the term and "the rental for any ensuing period shall be the fair market rental at the time of reopening."

On July 15, 2002, independent appraiser Mr. Edward Becker from Becker Consulting Group, Inc., conducted an appraisal of General Lease No. S-5497 which determined the fair market rent to be \$7,000 per annum. The Chairperson approved this appraisal on August 13, 2002.

By letter dated September 16, 2002 (Exhibit B), the Lessee has reconsidered its acceptance of the new rent and requested that the church, as a non-profit, be considered for a reduced rent under the Department's non-profit leasing policy.

As a lease issued pursuant to Section 171-43.1, HRS, the Board has the

EXHIBIT "B"

statutory authority to grant nominal consideration. Because past attempts at developing guidelines on how to handle all non-profits on a fair and consistent basis have not been successful, staff is bringing the subject case to the Board for its discretion. Staff has requested information on the Lessee's operations, services, program measurements, budget and funding and has attached whatever the Lessee has provided as Exhibit C.

Lessee has paid the \$600 annual rent up to June 30, 2005. Liability insurance certificate expires on April 20, 2006. The Lessee has posted the required performance bond. This bond is in the form of a \$500 certificate of deposit with First Hawaiian Bank.

Within the past two years, a Notice of Default letter dated February 4, 2004 was issued due to not posting the required performance bond. A performance bond was submitted on July 14, 2004.

The Board of Land and Natural Resources (Board) typically issues leases to private individuals and entities via public auction. The rent is established as fair market rent by appraisal. When a rental reopening occurs during the term of the lease an appraiser sets the new rent at fair market value.

However, when the tenant or prospective tenant is an eleemosynary (charitable) organization, the Board may lease, at a nominal rent, by direct negotiation. The statute that addresses this option of the Board is summarized as follows:

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It is noted that the 501(c)(1) organization must be both organized by an Act of Congress and be an instrumentality of the United States, while the 501(c)(3) organization is a privately organized charitable organization.

Therefore, when considering lease dispositions to eleemosynary (charitable) organizations, the Board has the option to dispose of via public auction at fair market rent or by direct negotiation at nominal rent.

RECOMMENDATION: That the Board

- A. Determine that the lease rent under General Lease No. S-5497, Trustees for the Apostolic Faith Church of Honolulu, Lessee, shall be:

EXHIBIT "D"

June 9, 2005

Fair market rent for the time period July 1, 2002 to June 30, 2012

Or

Nominal rent for the time period July 1, 2002 to June 30, 2002.

B. Authorize the amendment of General Lease No. S-5497 by

Deleting provisions: B. The annual rental reserved shall be reopened and redetermined as of the day following the expiration of the tenth (10th), twentieth (20th), thirtieth (30th) and forty-fifth (45th) years of the lease term. C. Determination of rental upon reopening of the annual rental. The rental for any ensuing period shall be the fair market rental at the time of reopening. Including all applicable paragraphs.

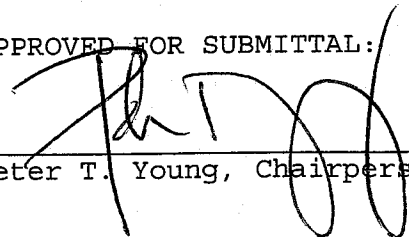
1. Review and approval by the Department of the Attorney General; and
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

EXHIBIT "00"

EXHIBIT A

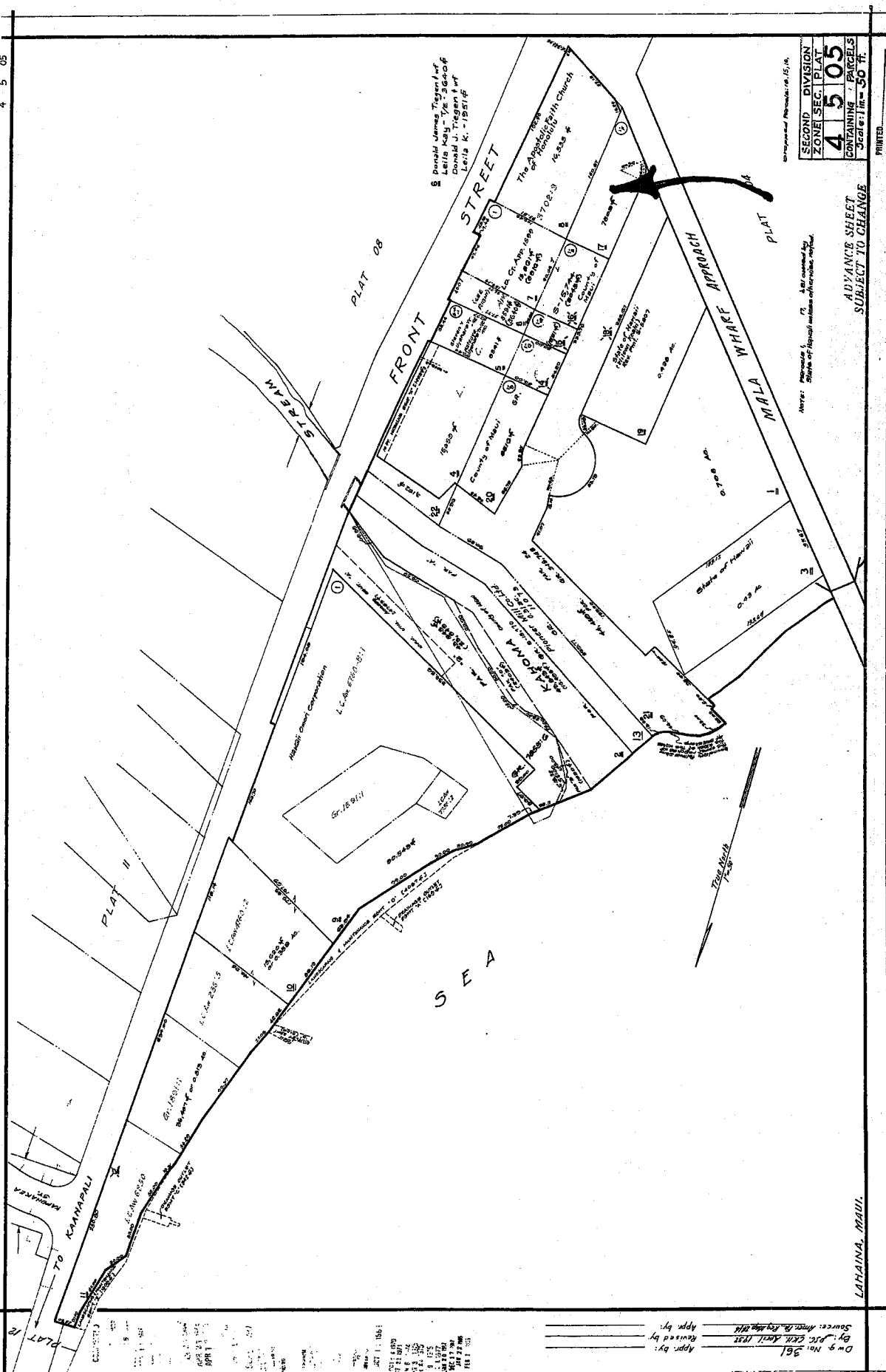


EXHIBIT B

The Apostolic Faith Church



HEADQUARTERS:

1043 MIDDLE STREET

P.O. BOX 2778 HONOLULU, HI 96803

Founded on August 4, 1923 by Charles & Ada B. Lochbaum

WILLIAM M. HAN, SR.
Chief Pastor
Chairman of the
Board of Trustees

September 16, 2002

TRUSTEES:

Pastor Leonard K. Y. Asano, Sr.
Edwin H. Sproat
Evangline L. Han
William M. Han, Jr.

Dierdre S. Mamiya
State Of Hawaii
Department of Land And
Natural Resources
Land Division
P.O. Box 621
Honolulu, HI 96809
Attn: Land Division
Administratior

RECEIVED
LAND DIVISION
2002 SEP 16 PM 3:06

Dear Ms Mamiya:

We are in receipt of your certified mail, Article No. 004 7897 0811 dated August 27, 2002 re Ground Rent for General Lease No. S-5497; Lahaina, Maui, TMK: (2) 4-5-05: 17 (Subject: Reopening Offer Letter).

Our representative, Trustee Edwin H. Sproat, Sr. contacted your noted point of contact, Roberta Ishikawa, to disregard the response submitted on September 10, 2002 by Pastor William M. Han, Sr. After further review of the independent appraisal report, we will re-consider the stated fair market rent for this period of \$7,000 per annum which is a substantial increase from the first 10 Years lease cost of \$600 per annum.

It is further requested that The Apostolic Faith Church, as a Non-Profit Organization status under the State of Hawaii, be considered for a reduced lease rent under the Non-Profit leasing policy. The Apostolic Faith Church Non-Profit Organization ID will be submitted under separate cover.

In addition, the Apostolic Faith Church may choose to enlist the services of an independent appraiser to review and validate the new lease rent of \$7,000 under General Lease No. S-5497 offered by the State of Hawaii Department of Land and Natural Resources.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "William M. Han, Sr.".

William M. Han, Sr.
Chief Pastor, Apostolic
Faith Church

APPLICATION AND QUALIFICATION QUESTIONNAIRE
(Non-Profit)

Write answers in the spaces provided. Attach additional sheets as necessary, clearly indicating the applicable section number.

Part I: General Information

1. Applicant's legal name: THE APOSTOLIC FAITH CHURCH
2. Applicant's full mailing address:
P.O. BOX 2778, HONOLULU, HI 96803
3. Name of contact person: PASTOR WILLIAM M. HAN/TRUSTEE ED SPROAT, SR.
Contact person Phone No.: 847-5902/3 Fax No.: 808-845-7393
4. Applicant is interested in the following parcel:
Tax Map Key No.: (2)4-5-05:17 Location: LAHAINA, HI 96761
If Applicant is current lessee: General Lease No.: GL S-5497
5. When was Applicant incorporated? _____
6. Attach the following:
 - A. Articles of Incorporation (Indenture of Trust)
 - B. Bylaws
 - C. List of the non-profit agency's Board of Directors
 - D. IRS 501(c)(3) or (c)(1) status determination
 - E. Tax clearances from both the Internal Revenue Service and State of Hawaii
 - F. Audited financial statements for the last three years. If not audited, explain why.
If Applicant is a new start-up, attach projected capital and operating budgets.
 - G. Any program material which describes eligibility requirements or other requirements to receive services

Part II: Qualification

7. Is Applicant registered to do business in Hawaii: Yes/No
8. Has Applicant received tax exempt status from the Internal Revenue Service? Yes/No
9. Is Applicant licensed or accredited in accordance with federal, State or county statutes, rules, ordinances, to conduct the proposed activities? Yes/No

List all such licenses and accreditations required: _____

10. Is Applicant in default or otherwise not in good standing with any State department (e.g. POS agency, DCCA, DLNR, etc.)? Yes/No

If yes, explain:

EXHIBIT "C"

11. Has Applicant had a State of Hawaii lease, permit, license, easement or sale in fee cancelled within the last five years? If yes, list:

Yes ☒ No

<u>Doc. No.</u>	<u>Type of Agreement</u>	<u>Term of Agreement</u>

12. Does Applicant have any policies which discriminate against anyone on the basis of race, creed, color, national origin, sex or physical handicap?

Yes ☒ No

If yes, explain:

13. Has Applicant received funding from a federal, State, or county government agency, the Aloha United Way, and/or a major private foundation within the last three years? Please list all such contracts below:

Yes ☒ No

<u>Agency</u>	<u>Contract Term</u>	<u>Contract Amount</u>
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$

14. If Applicant has not received funding from a federal, State or county government agency, the Aloha United Way and/or a major private foundation during the past three years, describe Applicant's qualifications to effectively perform the proposed services, including but not limited to, grants or subsidies received from non-major, private funders and/or staff or Board members who possess significant experience in Applicant's service field.

The Apostolic Faith Church Indenture of Trust - Governed by a
five-member Board of Trustees: Pastor William M. Han, Sr.,
Evangeline L. Han, Edwin H. Sproat, Sr., Pastor Leonard K. Y.
Asano, Sr. and William M. Han, Jr.

EXHIBIT "C"

Part III: Program Activities and Persons to be Served

15. What activities will be conducted on the premises to be leased?

The Apostolic Faith Church, Maui Branch, religious Sunday
School and Church Office functions.

16. What are the specific objectives of these activities?

To provide religious services to the Maui Communities, including
regular weekly & Sunday worship services, Sunday School and
Church related activities.

17. Describe the community need for and the public benefit derived from these activities.

Biblical religious teachings which benefit the moral, personal
and spiritual welfare of the Maui Community and Citizens
at large.

18. Describe the targeted population for these activities by: 1) age group, 2) gender, 3) ethnic background, 4) income level, 5) geographic location of residence, 6) special needs/disability, and 7) other applicable characteristic(s).

1. All age groups

6. Important religious

2. All genders

services & support

3. All ethnic backgrounds

7. Full growth potential of

4. All income levels

each member and participant.

5. All Maui Island Communities

19. Describe all eligibility requirements of clients to participate in the activities, e.g. age, income level, ethnic background, income level, disability, etc.

All are welcome with no restrictions of any kind.

20. Do you require membership to participate in these activities?

Yes ☒ No ☐

If yes, list the requirements of becoming and remaining a member:

Membership is extended on a voluntary basis.

21. How many unduplicated persons will engage in the activities annually?

Activity

Persons Per Year

Approximately 2,600 persons per year

22. Is State funding made available for the activities to be conducted on the leased premises?

Yes ☒ No ☐

If yes, by which State agency: _____

23. List all activities to be conducted on the leased premises which require payment of excise taxes, e.g. subleasing, sale of products or services. Include an estimate of annual gross revenues from each activity.

N/A

Development of the Land

24. Describe the proposed site development plan for the property, indicating the location and size of buildings, parking areas, landscaped areas and related uses. Attach sketch of plan if available.

N/A - Existing structures

25. What improvements to the land do you intend to make and at what cost?

Maintain existing structures

26. How will the improvements be funded?

N/A

EXHIBIT "C"

27. Describe all environmental, land use and other permitting requirements which must be met to develop the land as proposed.

N/A

28. Will you be subleasing any portion of the property? If yes, describe the sublease uses:

No.

Part V: Notarized Certification

I/We hereby certify that the statements and information contained in this Application and Questionnaire, including all attachments, are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, I/we may be disqualified from receiving a lease or my/our lease may be canceled.

Applicant Name

Applicant Name

By:

By:

Its:

Its:

Date:

Subscribed and sworn to before me this

8th day of October, 2002.

Notary Public

County of:

State of:

My commission expires:

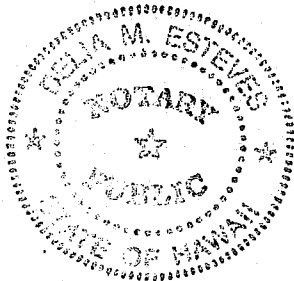


EXHIBIT "D"

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 13, 2005

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Statewide

Minimum Rent Policy for New Dispositions

BACKGROUND

Pursuant to discussion among staff, we feel there is a need to balance staff time and costs against the returns from Land Division dispositions. The State should receive a fair return on the land while maintaining its duty under the public land trust.

The current lowest rent for leases and revocable permits is \$156 per year or \$13 per month. Staff cannot locate any Board approval regarding the definition or the origin of the "minimum rent". Staff believes that in the past we just administratively adopted the term.

A consulting report by local real estate appraisal and consulting firm Medusky & Co. was completed in April 2004 which addressed the state's proposed formula for calculating one-time payments for term shoreline encroachment easements. The report recommended that for small encroachments where the rent payment, when calculated using the recommended formula is less than \$500, a minimum rent be charged of \$500. The \$500 amount was derived via other small easement considerations researched from the market. This fee was considered reasonable in part for inconvenience and to defray administrative costs. The Board has adopted the \$500 minimum rent for shoreline encroachments.

RESEARCH

Staff has conducted some research into overhead and administrative costs necessary to manage new dispositions and reopenings. Other landowners were surveyed such as Campbell Estate and Kamehameha Schools Bishop Estate. Campbell does not have a universal minimum rent but every year they set their rent based on the current conditions and evaluates all new deals based on that. Calls to Kamehameha Schools were not returned. Department of Transportation (DOT) and Department of Agriculture were also surveyed as to their policy regarding minimum rent. Only DOT charges a minimum rent of \$20 per month for rental of storage areas in the harbor areas.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

M.D

May 13, 2005

ITEM D-19

EXHIBIT "D"

Dispositions including lease, easement, license and revocable permit involve rental payments on a recurring basis or lump sum. The proposed guideline as explained below will cover these disposition but not the fee conveyances, e.g. sale of remnant or reclaimed land.

Further, staff notes that land dispositions involve multiple offices, e.g. DLNR, DAGS, AG. Staff would point out that the minimum rent recommended below only covers the staff cost of DLNR as the other agencies are only involved at the application stage. Once the disposition is consummated, DLNR is the only agency that manages the disposition and incurs staff costs. While we want to recoup part of the staff cost, staff feels that the figure has to be realistic and affordable by our tenants.

Also, time consumed for different disposition could be varied. Staff discussed the time with other districts and feels that an 8-manhour period is appropriate as the basis of this analysis.

EVALUATION:

Eight hours at a rate of \$18.91 (starting hourly rate of a Land Agent IV) is \$151.28. However, after the initial year, staff time expended on a disposition, which is in compliance with the terms and conditions, would be reduced substantially. Therefore, staff recommends a 75% discount from the total staff costs to account for the ongoing staff time on managing the disposition. Staff recommends \$40 per month or \$480 per year ($\$151.28 \times 25\% = \37.82 , rounded to \$40 per month) as the minimum rent for all dispositions involving recurring rental payment.

Staff feels the minimum one-time payment (\$500) adopted by the Board for shoreline encroachment could be used as a guideline for other term or perpetual easements as well. The report by Medusky based his findings on market data, which reviewed other minimum rent payments for a variety of other easements. The report concluded a minimum payment for small encroachment easements of \$500. Land Division has been recommending one-time payment for other types of easements (e.g. access, utility easements). Easement valuations are largely determined via independent appraisal. However, in the event the appraised value for the term or perpetual easement is below \$500, then Staff recommends a \$500 charge to cover administrative overhead. Staff feels this amount should be set as a minimum for all dispositions involving one-time payment.

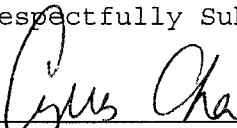
RECOMMENDATION

That the Board approves the above policy by requiring:

- A. All new dispositions by Land Division shall be subject to a minimum rent of \$40 per month, \$480 per year or \$500 (one-time payment) depending on the payment term.
- B. Staff shall bring any cases that require deviation from the above policy to the Board for approval.

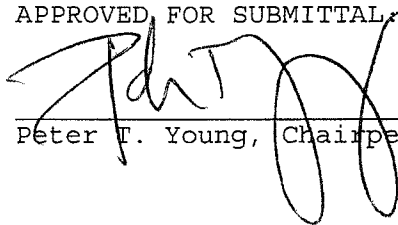
May 13, 2005

Respectfully Submitted,



Cyrus Chen
Appraisal Manager

APPROVED, FOR SUBMITTAL



Peter T. Young, Chairperson